

TENTH DAY
(Monday, July 10, 1989)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Dickson, Edwards, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Washington, Zaffirini.

Absent-excused: Carriker, Glasgow, Whitmire.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

In this hallowed place, our Father, men and women of the Senate are here because of a higher calling to public service; therefore, the very best of them is needed and required. May today's session be the beginning of renewed commitment and stronger cohesiveness as the Senate and all its Members join together in moving the agenda forward. We pray for this knowing of Your grace and ask that Your purpose in our lives might be served this day.

In Your Son's name, we pray. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of Friday, July 7, 1989, was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Carriker was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Glasgow was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Whitmire was granted leave of absence for today on account of important business on motion of Senator Brooks.

REPORTS OF STANDING COMMITTEES

Senator Montford submitted the following report for the Committee on State Affairs:

S.B. 80

Senator Henderson, Vice-Chairman, submitted the following report for the Committee on Jurisprudence:

S.C.R. 5
S.C.R. 15
S.B. 42
S.B. 66
S.B. 75
C.S.S.B. 33
C.S.S.B. 67

Senator Uribe, Vice-Chairman, submitted the following report for the Committee on Health and Human Services:

S.B. 76

HOUSE RESOLUTION ON FIRST READING

The following resolution received from the House was read the first time and referred to the Committee indicated:

H.C.R. 7, To Committee on Health and Human Services.

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 84 by Johnson Finance
Relating to appropriations of fees to the Board of Nurse Examiners and the Board of Vocational Nurse Examiners.

S.B. 85 by Uribe Health and Human Services
Relating to the practice of lay midwifery; providing penalties.

S.B. 86 by Glasgow, Carriker Finance
Relating to an appropriation to the University of North Texas for repair or replacement of facilities damaged by fire.

S.B. 87 by Sims Natural Resources
Relating to the supervision of the use of certain pesticides by certified private applicators.

S.B. 88 by Brooks State Affairs
Relating to the payment of certain laborers, workers, and mechanics under public works contracts.

S.B. 89 by Parker Natural Resources
Relating to the terms of directors of the Port of Port Arthur Navigation District.

S.B. 90 by McFarland State Affairs
Relating to the administration and enforcement of taxes on the sale and use of certain motorboats and to certificates of title for those motorboats.

CO-AUTHOR OF SENATE BILL 62

On motion of Senator Leedom and by unanimous consent, Senator Tejeda will be shown as Co-author of **S.B. 62**.

CO-AUTHOR OF SENATE BILL 80

On motion of Senator Parmer and by unanimous consent, Senator Edwards will be shown as Co-author of **S.B. 80**.

(Senator Ratliff in Chair)

PROCLAMATIONS FROM THE GOVERNOR

The following Proclamations from the Governor were read and were filed with the Secretary of the Senate:

**TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
SEVENTY-FIRST TEXAS LEGISLATURE IN FIRST CALLED SESSION:**

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the

following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to the forfeiture of certain property related to enumerated felony offenses and to the receipt of funds derived from or intended to further certain offenses.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to the powers and duties of the Van Zandt County Waste Disposal District.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to punishment for offenses committed against a child during a ritual or ceremony.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to the effective date of the application of the reduced oil production tax rate for oil from certain enhanced recovery projects.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to permitting the location of a new county jail facility anywhere within a county's geographic boundaries.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to requiring mandatory drug testing for persons placed on probation or released on parole or mandatory supervision.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to the creation of the State Trust Fund Investment Review Council and the review of investment of certain state funds.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to efficiency in state government and change to a competitive cost review program.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to the jurisdiction of the Starr County Court at Law.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to county courts at law in Randall County.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the

following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation amending contract and bid requirements for Jefferson County Drainage District No. 7.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to the prohibition against the location of a rock quarry near residences, schools, recreation areas, and other places in counties with a population of 950,000 or more.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to the bookkeeping records, the concurrent duties of the administrator, changes in corporate control, merger or consolidation of corporations and coordination of expiration dates of certain alcoholic beverage permit or license holders.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to the issuance of specially designed license plates for former Prisoners of War, Pearl Harbor survivors, and Purple Heart recipients.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matter for consideration by the Seventy-first Texas Legislature in its First Called Session:

(1) legislation relating to alcohol and drug abuse education for public school students and teachers.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 10th day of July, 1989.

Respectfully submitted,

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

ATTEST:

/s/George S. Bayoud, Jr.
George S. Bayoud, Jr.
Secretary of State

MESSAGE FROM THE HOUSE

House Chamber
July 10, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 6, Relating to court costs imposed to finance an alternative dispute resolution system in counties with a population of more than 2,400,000.

H.B. 29, Relating to the imposition of a premium receipts tax on surplus lines insurance.

H.B. 32, Relating to the effective date of the legislation authorizing the creation of the San Saba County Hospital District.

H.B. 52, Relating to submission of construction plans for certain roads by the Dallas County Improvement District, conveyance of district facilities, qualifications of district directors and publication of meeting places of the district's board of directors.

H.B. 67, Relating to the establishment of Central Texas University.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON SENATE BILL 1 GRANTED PERMISSION TO MEET

On motion of Senator Caperton and by unanimous consent, the Conference Committee on **S.B. 1** was granted permission to meet while the Senate was in session.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Caperton and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Finance might consider **S.B. 65** upon adjournment tomorrow.

**SENATE CONCURRENT RESOLUTION 2
ON SECOND READING**

On motion of Senator Haley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

S.C.R. 2, Directing the State Department of Highways and Public Transportation, in cooperation with the Texas Historical Commission, to identify the present-day disposition of the old San Antonio Road.

The resolution was read second time and was adopted viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 25 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 25, Relating to the polygraph examination of a complainant of a violent offense.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 25 ON THIRD READING**

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 25** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Washington.

Absent-excused: Carriker, Glasgow, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent-excused: Carriker, Glasgow, Whitmire.

**COMMITTEE SUBSTITUTE
SENATE BILL 31 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 31, Relating to services to children, youth, and their families provided by the Texas Youth Commission and juvenile boards.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 31** as follows:

In Section 1, page 1, line 43 after the word "programs" add a period and delete the remainder of the sentence.

In Section 3, page 1, line 58-59 delete "Except as provided by Subsection (h) of this section the" and reinsert old "the".

In Section 3, page 1, lines 65-66 and page 2, lines 1-2 delete subsection (h) and substitute a new subsection (h) to read as follows: "(h) The commission shall establish minimum lengths of stay for children in residential programs who represent a significant risk to public safety as a prerequisite for their release under supervision."

Section 3, page 2, lines 3-8 delete subsection (i) and substitute a new subsection (i) to read as follows: "(i) The Commission may require a child to complete a community service and restitution program."

The amendment was read and was adopted viva voce vote.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 31 as follows:

On page 2, delete Section 6 (a) and (b) in its entirety, and renumber the remaining sections accordingly.

The amendment was read and was adopted viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 31 ON THIRD READING**

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.S.B. 31 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Washington.

Absent-excused: Carriker, Glasgow, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent-excused: Carriker, Glasgow, Whitmire.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

H.B. 67, To Committee on Education.

H.B. 6, To Committee on Intergovernmental Relations.

H.B. 29, To Committee on Finance.

H.B. 32, To Committee on Health and Human Services.

H.B. 52, To Committee on Intergovernmental Relations.

SENATE BILL 6 ON SECOND READING

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 6, Relating to the carrying of weapons by members of the state military forces.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 6 ON THIRD READING

Senator Leedom moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 6 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Washington.

Absent-excused: Carriker, Glasgow, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent-excused: Carriker, Glasgow, Whitmire.

(President in Chair)

SENATE BILL 76 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 76, Relating to the transfer of funds by certain state teaching hospitals and hospital districts and the use of those funds for the Medicaid disproportionate share program and making an appropriation.

The bill was read second time and was passed to engrossment viva voce vote.

GUEST PRESENTED

Senator Parmer, on behalf of Senator Glasgow, was recognized and presented Dr. Brett Mitchell of Benbrook.

Dr. Mitchell, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

**HOUSE CONCURRENT RESOLUTION 18
ON SECOND READING**

Senator Brown moved to suspend the regular order of business to take up for consideration at this time on its second reading:

H.C.R. 18, Petitioning the Congress of the United States of America to propose to the states an amendment to the United States Constitution, protecting the American flag and 50 state flags from wilful desecration.

The motion prevailed by the following vote: Yeas 25, Nays 2.

Yeas: Armbrister, Bivins, Brooks, Brown, Caperton, Dickson, Edwards, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parmer, Ratliff, Santiesteban, Sims, Tejeda, Truan, Uribe, Zaffirini.

Nays: Barrientos, Washington.

Absent: Parker.

Absent-excused: Carriker, Glasgow, Whitmire.

The resolution was read second time.

Senator Washington offered the following amendment to the resolution:

Floor Amendment No. 1

Amend H.C.R. 18 as follows:

(1) In the sixth whereas clause strike the words “now, therefore, be it” and insert the word “and”.

(2) Insert after the sixth whereas clause, the following:

“WHEREAS, This legislature likewise concurs with the court minority in Webster v. Reproductive Health Services, asserting the opinion of Texans that among the precious elements of American democracy symbolized by the flag are the sanctity of the family and concomitant rights of privacy in parental matters; now, therefore, be it”.

(3) Insert after the first resolving clause, the following:

“RESOLVED, That the Texas Legislature also petition the Congress of the United States to propose to the states an amendment to the United States Constitution that permits abortion with consent whereby a woman may exercise the right to choose whether or not to terminate her pregnancy; and, be it further”.

(4) In the third resolving clause, strike the words “a flag-protection constitutional amendment” and insert the words “the constitutional amendments”.

(5) In the fourth resolving clause, strike the words “this amendment and to restore this nation’s banners to their rightful status of treasured reverence” and insert the words “these amendments and to restore America’s reverence for its flags and the freedoms they represent, including the sanctity of the family and rights of privacy in parental matters”.

The amendment was read.

On motion of Senator Washington and by unanimous consent, the amendment was withdrawn.

Senator Washington offered the following amendment to the resolution:

Floor Amendment No. 2

Amend H.C.R. 18 as follows:

(1) In the sixth whereas clause strike the words “now, therefore, be it” and insert the word “and”.

(2) Insert after the sixth whereas clause the following:

“WHEREAS, This nation must ensure that all races and colors comprising that melting pot are united behind the flag, and that none harbor lingering resentments over historical wrongs that have been inflicted by their government; now, therefore, be it”.

(3) Insert after the first resolving clause the following:

“RESOLVED, That the Texas Legislature also petition the Congress of the United States to propose to the states an amendment to the United States Constitution that authorizes reparations to descendants of former slaves for the unconscionable degradation of slavery and for the loathsome century of ethnic oppression from the United States Supreme Court decision in the Dred Scott case of 1857 to the decisions in Brown v. Board of Education of Topeka of 1954 and 1955; and, be it further”.

(4) In the third resolving clause, strike the words “a flag-protection constitutional amendment” and insert the words “constitutional amendments to protect the flag and to make reparations for racial injustice”.

(5) In the fourth resolving clause, strike everything after the word “secure” and insert the words “the amendments and to restore the pride of all Americans in their flag and country.”.

The amendment was read.

On motion of Senator Washington and by unanimous consent, the amendment was withdrawn.

Senator Washington offered the following amendment to the resolution:

Floor Amendment No. 3

Amend H.C.R. 18 as follows:

(1) In the sixth whereas clause, strike the words "now, therefore, be it" and insert the word "and".

(2) Insert after the sixth whereas clause the following:

"WHEREAS, This legislature stands behind the brave students in Tiananmen Square who demonstrated their loyalty to ideals of democracy and freedom, and against the brutal government that trampled on those ideals, murdered innocent hundreds, and desecrated the Statue of Liberty replica in a way that wrenched the hearts of Americans the same as has the desecration of its flag; now, therefore, be it".

(3) Insert after the first resolving clause the following:

"RESOLVED, That the Texas Legislature also petition the Congress of the United States to propose to the states an amendment to the United States Constitution that prohibits the United States government, any state or political subdivision, and any individual or corporation from conducting business or commerce with the government of the People's Republic of China or any citizen or entity thereof; and, be it further".

(4) In the third resolving clause, strike the words "a flag-protection constitutional amendment" and insert the words "these amendments".

(5) In the fourth resolving clause, strike everything after the word "secure" and insert the words "their proposal and adoption."

The amendment was read.

On motion of Senator Washington and by unanimous consent, the amendment was withdrawn.

Senator Washington offered the following amendment to the resolution:

Floor Amendment No. 4

Amend H.C.R. 18 as follows:

(1) In the sixth whereas clause, strike the words "now, therefore, be it" and insert the word "and".

(2) Insert after the sixth whereas clause the following:

"WHEREAS, The legislature affirms additionally that destruction of other cherished symbols, including the cross which is held dear by Christians, mocks with undisguised contempt this nation's traditions of religious tolerance and free worship; and

"WHEREAS, Though government under the principle of church-state separation certainly cannot institutionalize the display of religious symbols, neither can it condone those who would incite civil upheaval or taunt the religiously devout by defiling articles sacred to their beliefs; now, therefore, be it".

(3) Insert after the first resolving clause, the following:

"RESOLVED, That the Texas Legislature also petition the Congress of the United States to propose to the states an amendment to the United States Constitution that prohibits the willful burning of a Christian cross and clearly

exempts such burning from normal constitutional protections associated with First Amendment freedoms of speech and religion; and, be it further”.

(4) In the third resolving clause, strike the words “a flag-protection constitutional amendment” and insert the words “these amendments”.

(5) In the fourth resolving clause, strike everything after the word “secure” and insert the words “their proposal and adoption.”.

The amendment was read.

On motion of Senator Washington and by unanimous consent, the amendment was withdrawn.

Senator Washington offered the following amendment to the resolution:

Floor Amendment No. 5

Amend H.C.R. 18 as follows:

(1) In the sixth whereas clause, strike the words “now, therefore, be it” and insert the word “and”.

(2) Insert after the sixth whereas clause, the following:

“WHEREAS, The American flag should be THE nation’s flag and should not be demeaned or disparaged by the display or flying of other flags that have been raised in violence against it; now, therefore, be it”.

(3) Insert after the first resolving clause, the following:

“RESOLVED, That the Texas Legislature also petition the Congress of the United States to propose to the states an amendment to the United States Constitution providing that display of a flag of the Confederate States of America (a.k.a. the Confederacy and the Southern Confederacy) shall not be an action protected by the First Amendment right of free speech and authorizing the Congress or state legislatures to prohibit display of any Confederate flag; and, be it further”.

(4) In the third resolving clause, strike the words “a flag-protection constitutional amendment” and insert the words “flag-protection constitutional amendments”.

(5) In the fourth resolving clause, strike the words “this amendment and to restore this nation’s banners” and insert the words “these amendments and to restore the American flag and 50 state flags”.

The amendment was read.

On motion of Senator Washington and by unanimous consent, the amendment was withdrawn.

Senator Washington offered the following amendment to the resolution:

Floor Amendment No. 6

Amend H.C.R. 18 as follows:

(1) Strike the fifth and sixth whereas clauses and insert the following:

“WHEREAS, Texas legislators, unaccepting of acts of destruction directed against Old Glory, a cherished symbol of American freedom, similarly cannot tolerate acts of destruction directed against those very Americans whose welfare the flag upholds; and

“WHEREAS, Certainly no free or humane society can with good conscience execute its own citizens, even those judged guilty of heinous crimes, given options for alternative life incarceration; now, therefore, be it”.

(2) Insert after the first resolving clause, the following:

“RESOLVED, That the Texas Legislature also petition the Congress of the United States to propose to the states an amendment to the United States

Constitution that clarifies the provision of the Eighth Amendment relating to cruel and unusual punishment to include specifically the death penalty as a prohibited punishment; and, be it further".

(3) In the third resolving clause, strike the words "a flag-protection constitutional amendment" and insert the words "constitutional amendments to prohibit flag desecration and capital punishment".

(4) In the fourth resolving clause, strike everything after the word "secure" and insert the words "the proposal and adoption of these amendments."

The amendment was read.

On motion of Senator Washington and by unanimous consent, the amendment was withdrawn.

Senator Washington offered the following amendment to the resolution:

Floor Amendment No. 7

Amend H.C.R. 18 as follows:

(1) Strike the last three whereas clauses and insert the following:

"WHEREAS, In dire need of such defense are the oppressed peoples of South Africa, for whom there is no red, white, and blue, no equality of rights, but white only, and a policy of apartheid that confers privilege solely to a powerful, tyrannical minority; and

"WHEREAS, South African racism is an abhorrent regime, defiling all aspirations of liberty and justice; thus, it is more appropriate that in protest Americans desecrate the South African flag and support strong economic restrictions to hasten the demise of racial intolerance in that country; now, therefore, be it".

(2) Insert after the first resolving clause, the following:

"RESOLVED, That the Texas Legislature also petition the Congress of the United States to propose to the states an amendment to the United States Constitution that prohibits the United States government, any state or political subdivision, or any individual or corporation from conducting business or commerce with the government of South Africa or any citizen or corporation thereof; and, be it further".

(3) In the third resolving clause, strike the words "a flag-protection constitutional amendment" and insert the words "these amendments".

(4) In the fourth resolving clause, strike everything after the word "secure" and insert the words "their proposal and adoption."

The amendment was read.

On motion of Senator Washington and by unanimous consent, the amendment was withdrawn.

Senator Washington offered the following amendment to the resolution:

Floor Amendment No. 8

Amend H.C.R. 18 as follows:

(1) In the sixth whereas clause, strike the words "now, therefore, be it" and insert the word "and".

(2) Insert after the sixth whereas clause the following:

"WHEREAS, The principle of "liberty and justice for all" enshrined in our Pledge of Allegiance demands redress for past practices of discrimination that have been wrought on this nation's victimized yet nevertheless patriotic minorities; now, therefore, be it".

(3) Insert after the first resolving clause the following:

“RESOLVED, That the Texas Legislature also petition the Congress of the United States to propose to the states an amendment to the United States Constitution that specifically permits affirmative action and minority set aside programs and provides a mandated quota for redressing past discrimination; and, be it further”.

(4) In the third resolving clause, strike the words “a flag-protection constitutional amendment” and insert the words “flag-protection and minority-redress constitutional amendments”.

(5) In the fourth resolving clause, strike everything after the word “secure” and insert the words “the proposal and adoption of these amendments.”.

The amendment was read.

On motion of Senator Washington and by unanimous consent, the amendment was withdrawn.

Senator Washington offered the following amendment to the resolution:

Floor Amendment No. 9

Amend H.C.R. 18 as follows:

(1) Strike the first resolving clause and substitute the following:

“RESOLVED, That the 71st Legislature of the State of Texas, 1st Called Session, hereby make petition to the Congress of the United States to call a convention for the purpose of proposing an amendment to the United States Constitution that would protect the American flag and the 50 state flags from wilful desecration; and, be it further”.

(2) Strike the third resolving clause and substitute the following:

“RESOLVED, That a copy of this resolution be prepared and forwarded to President George Bush, asking that he lend his support to the proposed constitutional convention to consider a flag-protection constitutional amendment; and, be it further”.

(3) In the fourth resolving clause strike “to secure this amendment and to restore” and substitute “in calling for a constitutional convention to consider an amendment restoring”.

The amendment was read.

On motion of Senator Washington and by unanimous consent, the amendment was withdrawn.

Senator Haley offered the following amendment to the resolution:

Floor Amendment No. 10

Amend H.C.R. 18 as follows:

(1) Strike the first resolving clause and substitute the following:

“RESOLVED, That the 71st Legislature of the State of Texas, convened in First Called Session, hereby petition the Congress of the United States of America to propose to the states an amendment to the United States Constitution that provides for an elected federal judiciary; and, be it further”;

(2) in the third resolving clause, strike “a flag-protection” and substitute “this”;

(3) in the fourth resolving clause, strike “and to restore” and substitute “, which will eventually result in restoring”.

The amendment was read.

Senator Brown raised a point of order that the amendment was not germane to the resolution.

The President sustained the point of order.

The resolution was adopted viva voce vote.

RECORD OF VOTES

Senators Barrientos and Washington asked to be recorded as voting "Nay" on the adoption of the resolution.

SENATE BILL 80 ON SECOND READING

On motion of Senator Parmer and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 80, Relating to the offense of desecration of a United States flag.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 80 ON THIRD READING

Senator Parmer moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 80** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Washington.

Absent-excused: Carriker, Glasgow, Whitmire.

The bill was read third time and was passed viva voce vote.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Truan and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Education might consider **S.B. 27** upon adjournment today.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Health and Human Services might consider **H.B. 32** at 9:30 a.m. tomorrow.

MEMORIAL RESOLUTIONS

H.C.R. 22 - (Glasgow): In memory of Dr. James E. Hunter.

S.R. 121 - By Glasgow: In memory of Albert Lea Jackson, Jr., of Denton.

S.R. 122 - By Glasgow: In memory of Roy Carlton "Ducky" DeWeese of Palo Pinto.

S.R. 123 - By Glasgow: In memory of Dr. Ray Moore of Mineral Wells.

S.R. 124 - By Glasgow: In memory of Julia Smith Vielehr.

CONGRATULATORY RESOLUTIONS

S.R. 119 - By Dickson: Commending Ludlum Measurements, Inc., and its president, Don Ludlum, for their commitment to the American democratic system.

S.R. 120 - By Barrientos: Honoring the lives of Mr. and Mrs. Gilberto Vera, Sr.

S.R. 125 - By Armbrister: Extending congratulations to Fay Junius Whitlow, Sr., of Banquete on his 90th birthday.

S.R. 126 - By Barrientos: Recognizing the Bales and McMichael families for their dedication to and management of Scholz Garten.

S.R. 127 - By Truan: In memory of Florentino Rivero Sheldon and Frances Truan Sheldon of Corpus Christi.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 12:36 p.m. adjourned until 10:00 a.m. tomorrow.

ELEVENTH DAY

(Tuesday, July 11, 1989)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Zaffirini.

Absent-excused: Edwards, Glasgow, Green, Parmer, Washington, Whitmire.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Almighty God, source of light and strength, engage and stretch our minds today to learn and to grow, enabling us to be better stewards of the gifts You have provided. We thank You for the lessons that common things teach. Grant that never will we waste an opportunity to make full use of lessons learned.

In Your Son's name we pray. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Glasgow was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Green was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Edwards was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Parmer was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Washington was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Whitmire was granted leave of absence for today on account of important business on motion of Senator Brooks.